DOCUMENT RESUME

ED 384 929 CS 508 971

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TITLE Constructing Relationships in Post-Divorce Therapy.
PUB DATE May 95
NOTE 33p.; Paper presented at the Annual Meeting of the International Communication Association (45th, Albuquerque, NM, May 25-29, 1995).
PUB TYPE Reports - Descriptive (141) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS *Behavior Change; *Change Strategies; *Communication Problems; Conflict Resolution; Divorce; Higher Education; *Interpersonal Communication; *Language Role; Models
IDENTIFIERS *Communication Patterns; *Conflict Management; Family Communication; Family Therapy; Nova Southeastern University FL

ABSTRACT

This paper introduces a post-divorce therapy project in which therapists focus on communication patterns and help families resolve their problematic post-divorce situations by co-creating more useful ways of dealing with their disputes and conflicts. The paper also examines how therapists attempt to construct alternative relationships with and between the co-parents. The paper first details the background of this post-divorce therapy project, reporting how since 1988 Nova Southeastern University's (NSU) Department of Family Therapy has been working with Florida's 17th Judicial Circuit to create a number of innovative, court-connected clinical projects. The paper notes that the major influence on the language-sensitive approach used in the clinical project has been the writing of Gregory Bateson--especially his assessment of how relationships are built through language. The central section of the paper consists of excerpted transcripts of a therapy session, recounting the conflicts in the mother, the father, and the therapists' actual words. The paper points out that careful reiteration of the theme of "the child's best interests" finally allows for a lessening of conflict and hope for better relations in the future. The paper concludes with some structural changes for the therapy project which should allow for more effective ways of helping families to work through their difficulties and begin life again after divorce. (Contains 13 references.) (PA)

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Running head: CONSTRUCTING RELATIONSHIPS

Constructing Relationships in Post-Divorce Therapy

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Abstract

In divorce settlements, ex-spouses may continue their co-parenting relationships through joint custody arrangements. Sometimes co-parents replicate their problematic pre-divorce communication patterns after the divorce. As a result, they may return to court to settle their differences through litigation or mediation. In some instances, they argue so much that the judge may refer them to an alternative form of dispute resolution--post-divorce therapy. In this paper, we introduce one post-divorce therapy project in which therapists focus on communication patterns and help families resolve their problematic post-divorce situations by co-creating more useful ways of dealing with their disputes and conflicts.

Constructing Relationships in Post-Divorce Therapy

There comes a time in many married couples' lives that one or the other or both of the spouses decide that their marriage should be dissolved. When such a decision occurs, husbands and wives usually contact attorneys, seek legal advice, and proceed to draft a divorce agreement. In this process, the parties can select litigation, mediation, or a combination of the two to work through the particularities of their divorce (Emery, 1994; Hanes, 1994; Maccoby & Mnookin, 1992). At some point, the judge makes a decision and the divorce is granted: Their legal relationship is severed, property is divided, in the case of children, custody and visitation arrangements are created, and the family begins its post-divorce life.

With some divorces, the process can go rather smoothly. In others, the divorcing couples can become embroiled in protracted, expensive, and heated legal battles. Ironically, in these complex cases, the couple's divorce can last longer than their marriage did.

After these troublesome divorce settlements, the ex-spouses may continue their co-parenting relationships through joint custody arrangements (Emery, 1994; Maccoby & Mnookin, 1992). Even though these ex-spouses are no longer marital partners, they still have to work together as co-parents to raise their children. Couples often may replicate their problematic pre-divorce communication patterns as they attempt to work together as co-parents (Donohue, 1991). In these situations, the couples may return to court to settle their post-divorce differences through litigation or mediation. Sometimes they argue to such an extent that the

judge refers them to an alternative form of dispute resolution--post-divorce therapy. Judges make this decision because they believe that couples must first learn to communicate and work together in therapy before they can sort out their legal issues in court.

In this paper, we will introduce the readers to one post-divorce therapy project in which teams of therapists work with co-parents and their children to resolve the problematic life situations which keep them locked in legal battle and prohibit them from moving on with their lives. In presenting this clinical approach, we will focus on the interesting and somewhat unique communication patterns which can be found in these court-connected therapy sessions. We will also examine how therapists attempt to construct alternative relationships with and between the co-parents.

The Post-Divorce Therapy Project

Since 1988, Nova Southeastern University's (NSU) Department of Family Therapy has been working with the State of Florida's 17th Judicial Circuit in Broward County to create a number of innovative, court-connected clinical projects. These programs, based upon the notion of the multi-door courthouse (Gray, 1994; Ray & Clare, 1985), help individuals, couples, and families find solutions for a variety of psychosociolegal problems.

In the multi-door courthouse approach to law, judges, attorneys, and their staffs work to create a variety of programs designed to meet various needs of the community. In a single door courthouse, disputants use the court for trials only. In

a multi-door courthouse, people may come in for divorce mediation, victim-offender mediation, juvenile arbitration, pre-adjudication processing, and diversionary service. In addition, court personnel may refer people out to adjunct programs in the community such as parenting classes, family support services, couples' communication programs, and family therapy (Gray, 1994; Ray & Clare, 1985). Operating from this philosophy, NSU's multi-door courthouse projects have included diversionary counseling programs for pre-adjudicated youths and their families, therapy and family support for families with juveniles who have been adjudicated as adults, mediation for child protection cases, adjunctive therapy for families in mediation, and most recently, the Post-Divorce Family Therapy Project.

In this last project, faculty and graduate students from the Department of Family Therapy provide brief, systemic therapy (e.g., Rambo, Heath, & Chenail, 1993) for those families who have become stuck within the legal system. Conflict between the ex-spouses in these families has reached such an extent that the judge or general master of the court working with families find themselves with few options. The ex-spouses can be found in contempt of court for their outbursts. Action can be delayed and delayed with the hope that the couples will eventually calm down enough to work together. As an alternative, judges and general masters can come up with some other means to help these families resolve their disputes. It was in this search for an alternative that a number of judges and general masters came to work with NSU's Department of Family Therapy to create a post-divorce family therapy project. If families could learn to communicate and to cooperate

together in therapy, it was thought that they could then begin to work through some of their legal issues in court.

Resolving conflict with these post-divorce families has proven to be quite a challenge for the NSU therapists. Familial concerns that preexisted the divorce usually remain problematic even after the divorce settlement is signed. Court system involvement and divorce agreement wordings can make working toward therapeutic solutions very complex. New difficulties may also arise as ex-spouses begin to date and/or remarry, as step-siblings join the families, and as family members incorporate holiday, birthday, and other special events into court-enforced visitations and custody schedules. Paramount in these disputes are the couples' attempts to decide which of them is truly at fault for the marriage being destroyed and for the family being put asunder. For some couples, no other post-divorce issues can be resolved until this central debate can be decided.

The post-divorce family's life legally begins in the courts. Fathers', mothers', and children's identities are socially constructed as they converse with judges, attorneys, mediators, therapists, and each other. As these conversations unfold, family members' talk becomes saturated by conflict resolution system languaging (Gergen, 1991; Shotter, 1993). There is legal jargon, attorney-coached talk, and alternative dispute resolution discourse. As a consequence, family members can lose their respective identities, become entrapped in legal rhetoric, and remain far too long in the family court system--a situation not necessarily in their best interests.

As we began to work with these families in our post-divorce therapy project, it became apparent to us that their talk and ours included many legal-saturated features from these earlier conversations. Terms such as "the other party," "in the best interests of the child," "custody agreement," and "visitation schedules" could be readily heard in our sessions. These remnants of "court talk" in our clinical conversations stood as ample evidence that the families and we were still living in the legal system as we were trying to find ways to get the families out of the courts.

In reflecting on our work with these families, we were intrigued by these legal terms, and at the same time, frustrated by the interactional patterns in which we were drawn. We practice a language-sensitive approach in therapy (see Rambo, Heath, & Chenail, 1993). In the model, we work closely with the language of our clients in our clinical conversations. As therapists, we may never know for certain what the language of another in therapy truly signifies, but we do assume that the talk of our clients is significant. Because of this significance, we assume a posture of curiosity. We must learn as much as we can about what clients say. In addition, we must also note how they put their words together and how these constructions of words take on meaning or meanings in conversation (Chenail & Fortugno, 1995, p. 74).

We assume that people come to therapy because they find that their ways of talking about their problems have become rather rigid. For instance, a person may say that one event is always predicated on another (e.g., "I will change when he

changes!"). This rigidity of speech is usually associated with a certain degree of tightness of meaning. In other words, the client's pattern of talk has become so tightly twisted that this torque does not allow for flexibility in meaning or action.

If we do not loosen up the talk, if the pattern of talk in therapy stays the same as it has been for the clients in their previous interactions, then it is likely that the clients will remain locked in their psychosociolegal problems. To address this, we engage our clients in conversations so that the talk becomes an alternative means of expression and a viable vehicle for articulating solutions to their problematic life situations (Rambo, Heath, & Chenail, 1993, p. 229).

A major influence to our language-sensitive clinical work has been the writing of Gregory Bateson (1972, 1991; Watzlawick, Bavelas, & Jackson, 1967). Central to our Batesonian-influenced approach to therapy is the assessment of how relationships are built through language. Bateson theorized that in each message we communicate, there are two aspects--report and command. To Bateson, the report was the content of the message. For instance, in talking to her son, a mother may report, "Your room is a mess!" This serves to tell the son that his personal habitat has become an environmental hazard or the equivalent to that in his mother's eyes.

Besides the report aspect, Bateson suggested that there is also a command factor in any communicative message. In our example, while the mother may be reporting that her son's room is a mess, she is also making a request or commanding that he clean his messy domicile. Bateson went on to say that it is through these patterns of report and command that we construct our relationships

with others and ourselves over time. Again returning to our example, the mother attempts to reinforce her relationship with her son by notifying him that his room is dirty and directing him to clean it. In speaking this way, she asks her son to "Be son to me" by obeying her command because that is what a son does for his mother, and conversely, that is what a mother does for her son.

As can be seen from this exemplar, human communication can be quite a complex affair. A simple message can be construed to mean various things and there are many ways in which communication can become difficult, confused, torqued, and problematic. Sometimes in therapy, a pattern such as the one described above can be easily changed. Instead of overtly reporting to her son that his room is dirty, while covertly meaning that he should clean up the mess, we can help the mom come up with some more direct ways of demanding or asking her son to take care of tasks and duties around the house.

In other cases, we assist the family members in discussing how they want to re-construct their relationships. Maybe in the case of our mother and son, they are ready to redefine how they want to be a family together. Perhaps they are ready to become less hierarchial in their mother-son relationship. If that is the case, we will then work together in the sessions to create new ways of talking and acting based upon the mother and son's desires to have a "flatter" familial hierarchy.

In our post-divorce therapy cases, it seemed that families came to us in therapy and made requests which sounded more like appeals one would make in a court room than those usually made in a clinic. It appeared to us that we were

being asked to judge the families, to decide which party or parties were guilty of causing the divorce, and to render legal decisions such as, "Who should get custody of the children?" In other words, instead of asking us to help them to create new ways of interacting with each other, it appeared that they wanted us to continue the conversations which they had been living throughout their time in the court system. In hearing these requests, we felt that we were being asked by the individual family members to "Be judge to me."

Our concern in honoring these requests is that we worried that we would be participating in repetitive interactions or attempted solutions which, up to that point, had not been very productive or successful for all of the parties concerned. For instance, if the judge previously had not been able to render a satisfactory decision, should we repeat the torqued action pattern and "re-try" the case? Even if that were to occur, would our findings necessarily help the family members move on from this chapter in their lives?

Needless to say, as a group, we found these cases to be very challenging. In an attempt to address the clinical concerns we were having with these families, we formed a clinical research team as part of our post-divorce therapeutic practice. In this pursuit, we discussed a number of ways we could study our interactions with the families, identify in greater detail the repetitive patterns we were observing in the therapy sessions, and create alternative meanings and solutions with these post-divorce families. In this paper, we will present our preliminary thoughts on the

communication patterns we experienced in the therapy sessions, and we will share our plans for improving our post-divorce therapy work.

Our Preliminary Analysis

In our model of therapy, we build in a number of opportunities for reflection and thought. We start each therapy meeting with a pre-session conversation in which we process the previous time we had seen the family. When we start the actual face-to-face part of the session with the family, one part of the team is in the room conducting the session and the other part of the team is observing the process from behind a one-way mirror. Sometime during the session, we take a short recess. During this respite, the team meets to process the first part of the session and to make any adjustments for the last part of the face-to-face. We then reconvene with the family and complete the session with them. After the family leaves the therapy room, we conclude the process by having a short post-session discussion in which we discuss what we had observed, write up notes on our thoughts, and make some preliminary plans for the next session. In addition to these "real-time" reflections, we routinely videotape our sessions and review these tapes during the time between the family's visits to the clinic.

From these reflective moments, we want to know more about that which we are doing in the therapy with the family and whether or not to change our behavior in therapy. For example, on some occasions, these clinical reflections help us to hear what we previously had not been hearing while the session has been going on

in the therapy room. Once we can hear this newness in a family's talk, we can then pursue an avenue in therapy which we had not been using resourcefully.

For the most part, these clinical reflections are limited by being time sensitive (i.e., We fit our inquiry in around seeing the families.), by being oral in nature (i.e., We primarily discuss the research.), and by being a bit unsystematic (i.e., We do not necessarily apply the usual steps found in more formal research projects such as writing up the results.). Given the challenge we were experiencing in these post-divorce cases, we wanted to make our re-searching more formal. To this end, we formed a research team and began to study our cases.

In this new phase, we reviewed our case notes and videotapes. We transcribed our videotaped sessions and we began systematically to review these tapes and transcripts. We wanted to discuss our thoughts about the therapy sessions and, most importantly we wanted to take a "fresh look" at our work. Since approximately four months had passed since we had initially seen some of these families, we felt that this time away from the cases would help us be somewhat defamiliarized with the events of the sessions. Theoretically, this would allow us to experience the sessions anew.

In our research team sessions, we began to organize ourselves around the issues which had been clinically important to us during the therapy phase of our work. We wanted to know more about the ways in which we and the families communicated together in our post-divorce sessions. We especially were interested in examining our first sessions because it was in these meetings that we had

experienced our greatest difficulties with practicing our model and hearing what the families wanted from us in therapy. From these repeated listenings, we began to construct what we felt were the salient features of these therapy conversations. As we collected these exemplars from the sessions, we began to create a taxonomy of the ways in which we and the families spoke while trying to resolve their post-divorce problems.

In the next few pages, we present some exemplary talk of our post-divorce therapy work we had conducted during the fall of 1994. All of these excerpts have been taken from one first session. We have chosen to present segments from only one case for a couple of reasons. One, we felt that by presenting excerpts from one session, the reader can get a better grasp of the flow of the session by seeing where in the particular session a certain excerpt was culled. Two, as a group, we believe that this session is the best one for giving a reader a "being there" feel for the ideas and emotions conveyed in these post-divorce therapy sessions.

The case concerned two co-parents, Laurie and Roy, and their young son, Zachary. The parents had joint custody. The son lived primarily with the father and a visitation schedule had been worked out for the times Zachary was to spend with his mother. The family had been referred to therapy as a way to improve their communication which had been strained by the mother's accusations that the father had sexually abused his son. The court and the state social service agency had investigated the allegations and had not found just cause for the claims. As a

result, the father continued to have joint custody and Zachary continued to live with his father.

In the excerpts presented in the analysis sections, the following are the session participants and the abbreviations we used to represent them in the transcript: "M" is Laurie, the mother of Zachary and ex-wife of Roy; "F" is Roy, the father of Zachary and the ex-husband of Laurie; "T1" is Vilma Castro-Torrealba, the primary therapist for the case; "T2" is Michael Moss, a member of the therapy team; and "T3" is Ronald Chenail, the supervisor and also a team member. Except for the therapists, the participants' names, as well as those names mentioned in the session, have been de-identified. This has been done to preserve the confidentiality of the family members, their friends, and associates.

Lastly, the numbers, appearing before the name of the speakers, mark the different speakers' turns. This was done to help the reader to situate the excerpts' placement in the original transcript and to provide a useful way to orient the reader's attention when we discuss the features of a particular turn. Also, the excerpts are also individually lettered (i.e., Excerpt A through Excerpt I). This too is done to aid us in our referencing of a particular turn in a particular excerpt in our analysis discussions.

In our presentation of the talk, we have grouped the exemplars into three sections: One, "Confusion" Talk; two, "Be Judge to Me" Talk; and three, "In the Best Interests of the Children" Talk. The following is a presentation of these exemplars, along with our descriptions of the talk. The juxtaposition of the talk of

the sessions and our talk about the talk allows the readers to judge our statements about the session (i.e., Is there a fit between the talk of the session and what we say about that talk?).

"Confusion" Talk

In our listening groups, we began to hear a theme in the sessions which we had not noticed during our original participation with these families. This theme, which we call "Confusion" Talk, concerns utterances made by the parents as to their confusion on why they had been sent to therapy or what was expected of them once they were at the clinic.

Excerpt A

008 T1: Roy, I'd just like to hear your story.

009 F: Well, two things, before we start here, I don't even know what this is all about to tell you the truth. It was court ordered. If you need a document of the proceedings, if you need history of the case, then I'll give you a list of people, call them, we've been examined, there have been reports written, everything is out in the open and I suggest you pour through the reports before you try and sit down and determine what is going on if you really care. Or whatever the sessions are supposed to bring out.

010 T1: Uh huh.

011 T2: What would you like to, because you know we're not the court, and I don't think we're here to prove guilt or innocence here.

012 F: Ya no, I agree, ya know, that's past, that's all done. The judge says come here to get your communication skills between the two of us. Now, ya can't communicate if one person will not communicate and that's what I'm here for..I'd like to communicate with her..certainly Zack's gonna be involved with this, I'd like to communicate with him and go from there. But the rest is history and if that's gonna constantly come up, then how am I gonna come? Because I've been to Dr. Jeff Chess in Hollywood.. you can call him. Uh..two other psychologists in Coral Springs examined the whole family, you can call them and I don't want to rehash it all over again. As far as I'm concerned, it's done, it's history, I've been exonerated. Now if she can't get that out of her mind, then I don't know where to do from here. You understand?

In Excerpt A, the father states in Turn 009 that he is not sure why he has been sent to therapy. He says that he has been court-ordered and then he proceeds to offer us assistance in getting a variety of court information. The therapist in Turn 011 attempts to clarify that there are differences between therapy and the court. Later on in Turn 012, the father acknowledges that the judge had told him that he and his ex-wife were to come to therapy "to get your communication skills." After that clarification, he again returns to the court record talk which he had started in Turn 009.

This "Confusion" Talk, the expression of uncertainty on the parts of the co-parents of just what the therapy was and was not to be, would be played out throughout this and other cases we had seen in the post-divorce project. This is not to say that it is unusual for there to be a question as to why someone comes to therapy. Often, the first part of the first session is the time when therapist and client begin a joining process through which the two begin to come to a consensus as to what their mutual goals in therapy will be.

What makes these cases a bit different is that with the court involvement, it is not often clear to the co-parents how the process of therapy fits into the process of the courts. This is especially important when the ex-spouses continue to hold centrally the issue of "Who is guilty or who is at fault for the divorce?" The notion of being guilty or not is usually a court issue. The issue of whose fault is it is usually a therapy issue. When the two become intertwined (i.e., fault and guilt), therapy and court issues can become confused. In the next section, we suggest that this confusion can be heard as the co-parents seem to be testifying, evidencing, and appealing to the therapists.

"Be Judge to Me" Talk

As discussed earlier, when the cases were originally being seen by the team in therapy, the consensus of opinion on the part of the team was that we were being asked to be judges for the ex-spouses. We were expected to re-hear the case and to determine who was guilty or who was at fault. As we re-searched the cases in our listening groups, we still felt strongly that much of the talk of the ex-spouses

contained evidence of this type of talk. In our analysis we began to draw some simple distinctions within the "Be Judge to Me" Talk. These are "Testifying" talk, "Evidencing" Talk, and "Appealing" Talk.

By "testifying," we mean talk in which the parents make a declaration of truth or fact. By making these statements based upon their personal knowledge in support of an asserted fact, they bear witness for their own "case" and against the "case" being presented by their ex-spouse.

The next two excerpts, B and C, are good examples of "testifying" talk in a post-divorce session. In Excerpt B, the mother testifies to her quality of motherhood--She states that she was always there for her son, Zachary.

Excerpt B

068 M: But I've always...he was hospitalized twice, I was always there round the clock, I was always there for him. If he had a nightmare, I was there. I'm the one that took him to the doctors except for one time my husband took him for a recheck because I was working. I wasn't able to. I have always been there for him.

Statements to this effect (i.e., I am a good parent.) make a great deal of sense in sessions where custody is in question. Parents look to present their case for why they should get the child and why their ex should not. Even though the therapists in this case had stated earlier that they were not the court and that we were not meeting to prove guilt or innocence (see Turn 010 in Excerpt A), both co-

parents repeatedly made testimony to the quality of their parenting with Zachary. Excerpt C is one of the father's attempts at letting the therapists know that, unlike his wife, he has no problems when Zachary is with him.

Excerpt C

085 F: It's Tuesday night for a couple of hours, it's a month during the summer, a week spring break, a week Christmas time, Thanksgiving, holidays and when he's with me he's a good little boy, I mean I don't have any problems with him.

With our second distinction, "evidencing," we mean conversation in which the parents indicate and offer that which they want to be admissible as evidence in a session (or for the court). Although evidencing and testifying talk can often be combined, we draw a distinction between testifying and evidencing. By evidencing we mean those times when the ex-spouses describe outward signs for us to see (e.g., behavior of the child) or material objects for us to consider (e.g., psychologists' reports) in determining issues such as "Who is at fault?" or "Who is the best parent?"

In Excerpt D, the mother attempts to enter her notes which are her records of her son's observations, "...I have written down everything that my son has said." The report of this evidence seemed to us to be another attempt by one of the ex-spouses to give us enough material so we could form an opinion on the case. Given the court's earlier decision on the case, we felt that we were being asked to render a legal opinion--Who should get sole custody of the child?

Excerpt D

042 M: I don't want my son mentally abused anymore. Now according to my son, I have written down everything that my son has said and you're not gonna tell me that he didn't say that when I'm his mother. And there are other people I've heard some other things, now you're not gonna tell me that my child didn't say that. I want the truth.

By our third distinction, "appealing," we are referring to those instances in which the co-parents make an urgent request for us to help. Although requests for help are often made in therapy sessions, the talk we have designated as "appealing" in these sessions are instances when the ex-spouses asked us to address decisions which earlier had been made by the courts (i.e., Who do we think should have custody of the children?).

Excerpt E contains some of the most moving talk of the session. In her turns, 070 and 072, the mother again testifies to her excellent mothering and then reports her frustrations now that the court has made its decision to have Zachary live predominantly with his father. In both turns she cries, "...it's in the hands of the court. There's nothin I can do" (Turn 070) and again in Turn 072, "It's completely out of my hands...I want to protect him but I can't."

Excerpt E

069 T2: What was he in the hospital for?

070 M: When he was young he was in for bronchitis and then when he was fifteen months, the same thing. He was in the nursery at three months

with other children and one of them was sick and he became ill and then again fifteen months and my girlfriend would come and bring me food and ya know to see how he was doing, but I was always there for this child, now I'm not there for him...in his own eyes I'm not there. Ya know this has happened to him, he doesn't want to be in this situation, why can't I help him, in a child's eyes. Ya know, it's out of my hands, it's in the hands of the court. There's nothin I can do.

071 T1: We understand that having courts involved is quite difficult...Um

072 M: (Interrupts) It's completely out of my hands...I want to protect him but I can't.

In hearing the mother's appeals, we felt that we were being asked, once again, to "be judge" and to help her get her son back. In other words, if the case was out of her hands, then it might be up to us to right this situation.

Finally, the last excerpt in this section serves as good exemplar on how all the testifying, evidencing, and appealing talk can be wrapped together in one sequence. As we re-searched this segment in our listening groups, we noted that the back and forth exchanges between the mother and the father seemed to be right out of a courtroom interaction as both parties moved to get their story heard.

Excerpt F

112 T2: So when you communicate this to the HRS or whoever..

113 M: (Interrupts) I never talked to the HRS okay...this is exactly what happened and I'm glad it is on video because I want it to be known. My version of what I heard and what I saw.

114 T1: Have they had an investigator come to your home?

115 M: Yes they have, but let me just

116 F: (Interrupts) They took the kid from her.

117 M: Yes they did but let me..

118 F: (Interrupts) Police and all.

119 M: But let me just get to that okay...let me just get to that please and then you can talk..okay. I'm the innocent one okay, I'm not the criminal here. I'm the innocent one and I want justice served and I want honesty to be spoken. My sister called the HRS man, he said he would help us, we know this child has been abused. I'll bring in as many witnesses in this room as you want and nobody's is able to help us. He hasn't opened up to the therapist but ya know, you speak with her okay because I never asked my son what happens in therapy, that's a special time between him and his therapist.

Given the repeated occurrence of this type of interaction throughout these sessions, as seen in Excerpt F, we strategized as a team to come up with a way or ways for us to help the co-parents begin to communicate in a way other than the argumentative one they had been presenting over and over again in the session. To

accomplish this goal of trying to shift the talk, we borrowed a concept from divorce mediation--evoking the best interests of the child (Emery, 1994)..

"In the Best Interests of the Children" Talk

Since it seemed to us that we were constantly returning to court talk in the session, we began to use a conversational move used quite often by mediators to help the couples focus on why they come to mediation for custody and visitations--their child or children. Our communicating that we wished to work on what was in the best interests of the child carried a command message with it to the co-parents of "Be partners together and with us." By reporting that we were all here to work for the best interests of the child, we were attempting to construct a new relationship between the co-parents and us, and also between the parents themselves. In doing so, it was our hope that we could help the families move from relationships typified by conflict to one characterized by cooperation.

In Excerpts G and H, the therapists try to shift the talk to issues regarding the couple's son. In Turn 013 from Excerpt G and Turns 041, 043, 045, and 047 from Excerpt H, the therapists attempt to involve the co-parents in talk about what would be to their son's best interests. In both of these instances, the mother and father do not stay talking about the best interests of their son for very long before they begin to argue again.

Excerpt G

013 T1: My understanding of why we're here is to kind of get the talk going and to see what's best for the child and um I guess our

communication in this room will be focused on that..to see what's best for your son.

014 M: Absolutely, that I want the truth revealed. I have no problem communicating.

015 F: The truth revealed..it has been revealed.

016 M: No it hasn't.

017 F: Yes it has.

Excerpt H

041 T2: Right, so is it possible to allow that to continue and for us maybe in addition to that, do something maybe, work on if you guys have some mutual goals for your son, Um...

042 M: I don't want my son mentally abused any more. Now according to my son, I have written down everything that my son has said and you're not gonna tell me that he didn't say that when I'm his mother. And there are other people I've heard some other things, now you're not gonna tell me that my child didn't say that. I want the truth.

043 T2: Well let's say if he said it but didn't say it, is there something that we can...do you have any other goals ?

044 M: Just to help my son.

045 T2: Okay you want to help your son..I assume Mr. Smith that you want to help your son too. Is that right?

046 F: Um hum.

047 T2: Are there some ways possibly that we can talk about helping your son?

048 M: Stop the lies...he goes to his father's house, his father turns him against me.

049 F: Who's lying?

050 M: Him, he's tells my son lies about me, telling my son that I hate him when I don't...telling my son that I'm sick when I'm not sick.

051 F: Laurie, I would never do that.

052 M: Well that's what he told me and that's a lie.

In this and other post-divorce therapy cases we had seen, we found that by evoking the best interests of the child talk a number of times, the co-parents would eventually leave their "courtroom-like bickering" and begin to make plans for their children's futures. In the last excerpt from this session, Excerpt I, the therapist and the parents finally begin to co-create a new activity for Zachary in their respective homes--having a picture of his mother in his room at his dad's house and having a picture of his father in his room at his mom's house. At last, the session ends on a note of cooperation with the parents agreeing to try this activity and to return next week for another therapy session.

Excerpt I

145 T3: That's why I came in because one thing that we're not is the judge.

146 M: Right. I'm just telling you..

147 T3: Cause here we don't have a lot of time left. We have other sessions. What I wanted to do, it's confusing because we get called into court or we don't and that sort of thing.

148 M: I'll say the same thing in court.

149 T3: Well then that's fine but we wanted to..we're not going to be the ones that make the decision and we're not the investigators also. What we wanted to try to do this week was to ask you to do a couple of things for your son this week in both of your homes.

150 M: Well he's with him this weekend.

151 T3: But is he spending any time this week with you?

152 M: Yes, he's with me during the week, yes.

153 T3: One thing that happens and you have mentioned this earlier about worrying about how much you were going to be in your son's life...and I can't remember your exact words but worried about being a part of his life.

154 M: Uh hum.

155 T3: And when the kids go back and forth it's hard to know a five year old whether they are cognitively and how they can understand that. But usually they are very good with the posters and pictures and that kind of stuff. And sometimes their rooms usually become very special to them.

156 M: (Interrupts) He has a very colorful room.

157 T: And one thing that sometimes works is that during the time he is with you and during the time he is with you is to sit down and maybe pick out a picture of you, maybe two, one that he can have and this is hopefully you can allow the other one to do this so in his room he has a picture of his mom and got a picture of his dad. Maybe it's better if he picks two separate pictures but at least they're both on top of his bed or on his wall so that he comes back and so even if he is with dad he's got a picture of his mom.

158 M: I understand that.

159 T3: And it's also a nice time to sit down and when sometimes we look at pictures we kind a...it's a nice moment but it also just gives a stability message that and you know that at his house there's a picture of you and you know there is a picture of you and I think that may help him a little bit with the transition.

160 M: How do I know if there is a picture of me by his word?

161 T3: Your son with his honesty you just have to ask.

162 M: My son is very honest. My son has told me some horrible things, because he is honest.

163 T3: Let's try to get this done first. [To Father] Will you cooperate also?

164 F: Sure.

Next Steps

As we continue to see families in post-divorce therapy sessions and to review tapes of this work, we try to come up with more effective ways of helping these families work through their difficulties and begin life again after the divorce. To this end, we have begun to incorporate some new adaptations to our clinical approach based upon our researching.

For one, our hearing the confusion talk led us to add a pre-therapy orientation meeting with the couples. In these sessions, we meet individually with the co-parents, describe the relationship between the court room and the therapy room, and discuss how the process of therapy can be useful for them and their children. We also plan to have regularly scheduled meetings with the referring judges and general masters. In these meetings we want to hear more clearly what is wanted from us by the courts and to say more clearly what we think can be accomplished by us the therapy.

As another change, we are now carefully reading all of the court records before seeing the families. For one, this helps us to address the parents' confusion talk since we are now better prepared to relate what the referring judge or general master wants us all to accomplish in therapy. For another, it also assists us when we hear some of the testifying and evidencing talk from the co-parents. By being familiar with the particulars of the case, we can demonstrate our working knowledge of the previous court actions to the mothers and fathers. Because we

already know the evidence and testimony, we are then in a better position to shift the talk to more productive areas of talk.

Lastly, we are also starting to meet the mothers and fathers individually more and more. We have made this change for a number of reasons. One, given the amount of emotion that can be present in these situations, it appears to be "safer" for the ex-spouses to express their feelings when they are alone with the therapists. Two, it is quite common for at least one of the parents to have his or her own issues to discuss. These can include parenting challenges, questions about new relationships in their lives, and any of a number other personal topics, which do not necessarily need to be addressed in front of the ex-spouse.

Unfortunately, there is no shortage of cases of this type with which to work and to study. But hopefully, as we continue to re-search this process of post-divorce therapy, we will begin to make more changes that will help us and the families to move the talk out of a "Be judge to me" pattern and into conversational flow which is more "Be therapist to me" in nature. If we can find better ways of working with this population, then these post-divorce families will be able to leave the courtrooms and begin to construct more cooperative and peaceful ways of living together.

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The authors would like to thank Jerry Gale for presenting this paper at the Understanding the Social World Conference and Jan Chenail for providing editorial guidance with the text. Earlier versions of this paper were presented at the 45th Annual Conference of the International Communication Association, Albuquerque, NM, May 28, 1995 and at the Understanding the Social World: Towards an Integrative Approach Conference, Queensgate, Huddersfield, UK, July 18, 1995.

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